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EXAMINER

JOO, JOSHUA

ART UNIT PAPER NUMBER

2154

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/935,259

Applicant(s)

HERRMANN, LAURENT

Examiner

Joshua Joo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/30/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/22/01.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Response to Amendment filed 1/30/2006

1. Claims 1-10 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claim 6 is rejected under 35 U.S.C. 102(e) as being unpatentable by Kataoka et al, US Patent #6,546,556 (Kataoka hereinafter).

4. As per claim 6, Kataoka teaches the invention as claimed including the means for identifying content to attach tags in a TV transmission at a transmitting end, and storing the content identified by the tags at receiving end. Kataoka's teachings comprise of:

a) analysis means for analyzing digital data (Col 5, line 27. digital TV system) so as to identify data referred to as multiple-use data which can be used several times at the receiver end, and data referred to as single-use data which can be used only once upon reception at the receiver end (Col 5, lines 9-16. Identifies scenes for collection in TV transmission. Col 1, lines 41-45. Parts of a transmitted video stream are identified e.g. program scenes, previews.);

b) creation means for creating data descriptors for describing each multiple-use data previously identified, said descriptors comprising a set of characterizing fields (Col 5, lines 15-

22. Create tags. Fig. 2; Col 4, lines 38-45. Tag fields.); and

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c) insertion means for inserting the data descriptors in the set of multiple-use data, each multiple-use data being then associated with a data descriptor (Col 5, lines 22-24. Tag is inserted in the identified TV program. Col 1, lines 41-45. Attach tags to parts of a transmitted video stream.).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka, in view of Lenihan et al, US Patent #6,169,843 (Lenihan hereinafter).

7. As per claims 1, 4, 8, and 10, Kataoka teaches substantially the invention as claimed including the method and system for identifying content to attach tags in a TV transmission at a transmitting end, and storing the content identified by the tags at receiving end. Kataoka's teachings comprise of:

a) first analysis means for analyzing digital data (Col 5, line 27. digital TV system) so as to identify data referred to as multiple-use data which can be used several times at the receiver end, and data referred to as single use data which can be used only once upon reception at the receiver end (Col 5, lines 9-16. Identifies scenes for collection in TV transmission. Col 1, lines 41-45. Parts of a transmitted video stream are identified e.g. program scenes, previews.);

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b) creation means for creating data descriptors for describing each multiple-use data previously identified, said descriptors comprising a set of characterizing fields (Col 5, lines 15-22. Create tags. Fig. 2; Col 4, lines 38-45. Tag fields.); and

c) insertion means for inserting the data descriptors in the set of multiple-use data, each multiple-use data being then associated with a data descriptor (Col 5, lines 22-24. Tag is inserted in the TV program. Col 1, lines 41-45. Attach tags to parts of a transmitted video stream.), and

in the receiver comprises:

d) second analysis means for analyzing received data so as to detect the presence of descriptors of multiple-use data and thus to identify multiple-use data and single-use data (Col 2, lines 12-14; Col 5, lines 42-44. Detects tags located in TV program. Col 1, lines 46-48. Identify video part by using associated tag.);

e) storage means for storing detected multiple-use data and their associated descriptors previously received (Col 5, lines 44-47. Accumulate video scenes with tag in the mass storage device. Col 1, lines 48-49. Accumulate desired video parts.);

f) recovery means for recovery multiple-use data previously stored (Col 5, lines 28-30. Requests specific TV clips. Col 5, lines 43-45. Collects and accumulates tagged clips. Recovery and playback is inherent.); and

8. Kataoka teaches substantial features of the claimed invention including accumulating and collecting TV programs and tags associated with the programs. However, Kataoka does not teach the composition means for composing contents of an application on the basis of single-use data and multiple-use data previously stored, a same data, which has a multiple use in the composition of said contents being then directly recovered upon each use from said storage means by said recovery means.

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9. Lenihan teaches of inserting content into a previously recorded program, where the playback of recorded content may be combined with external sources (Col 8, lines 46-51; Col 9, lines 1-3.)

10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka and Lenihan because both teachings deal with recording of video streams. Furthermore, the teachings of Lenihan to compose the content for playback by combining the recorded content with content from external sources would improve the teachings of Kataoka by allowing the playback content to not only include the recorded video, but additional information from difference sources such as advertisements.

11. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka, in view of Robbins, US Patent #6,317,882 (Robbins hereinafter).

12. As per claim 7, Kataoka teaches the signal carrier carrying a signal composed of digital data associated with descriptors (Col 5, lines 4-6. Tags attached to video scenes. Col 5, line 27. Digital TV system.), said digital data including multiple-use data (Col 5, lines 4-6. Desired video scene.), characterized in that each descriptor of multiple-use data comprises a set of fields corresponding to an identification code which enables distinguishing the descriptor from other descriptors (Col 4, line 41. Scene ID), to the type of data to which the descriptor is attached (Col 4, lines 42-43. Category.), and to a duration of use for the data associated with the descriptor (Col 4, line 45. Length of scene.). Kataoka also teaches of a descriptor comprising a starting time of the scene (Col 4, lines 44-45). However, Kataoka does not teach of a descriptor comprising a starting date and a final date defining a time window in which the data associated with the descriptor can be used.

13. Robbins teachings of identifying and recording content by attaching descriptors, where the descriptor comprises a date time-to-start and time-to-stop information (Fig. 7g; Col 38, lines 64-66) for recording the broadcast (Col 38, lines 35-37).

14. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka and Robbins both teachings deal with recording video streams. Furthermore, the teachings of Robbins for the descriptor to include a starting date and a final date for recording the video stream would improve the system of Kataoka by enhancing the receiver's recording capabilities, wherein the receiver can record content based on date in addition to time.

15. Claim 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka and Lenihan, in view of Robbins, and Nakatasuyama, US Patent #6,658,231.

16. As per claims 2 and 5, Kataoka teaches of recording content, wherein recording based on the time parameters contained in each descriptor in relation to a local clock (Col 4, lines 38-48). However, Kataoka does not teach the communication system as claimed in claim 1, characterized in that the receiver further comprises means for updating data descriptors and multiple-use data previously received and stored in said storage means, said updating means taking to account a capacity of the receiver to deal with the contents of the multiple-use data to which said descriptors are attached and various time parameters contained in each descriptor in relation to a local clock.

17. Robbins teaches the concept of updating data descriptors by comparing previously stored data descriptor with the descriptors in the data stream (Col 32, lines 33-45).

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18. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka, Lenihan, and Robbins because the teachings of Robbins to update data descriptors would improve the system of Kataoka and Lenihan by allowing the receiver to identify the latest and/or updated transmitted content specified by the user.

19. Nakatsuyama teaches of recording digital broadcast, where previously recorded programs are updated and recorded based on time (Col 5, lines 16-24; Col 9, lines 24-31). The system takes into account the capacity of the receiver by overwriting old programs with new programs (Col 8, lines 4-9).

20. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka, Lenihan, Robbins, Nakatsuyama because the teachings of Nakatsuyama to update previously recorded programs and to take into account the capacity of the receiver by overwriting old programs with new programs would improve the system of Kataoka, Lenihan, and Robbins by allowing the system to automatically record and store updated TV transmissions such as weather or traffic, and overwriting the previously recorded content would allow the system to continuously record content without the user having to manually delete previous content.

21. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka and Lenihan, in view of Robbins.

22. As per claim 3, Kataoka teaches the communication system as claimed in claim 1, characterized in that each descriptor of multiple-use data comprises a set of fields

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corresponding to an identification code which enables distinguishing the descriptor from other descriptors (Col 4, line 41. Scene ID), to the type of data which the descriptor is attached (Col 4, lines 42-43. Category.), and to a duration of use for the data associated with the descriptor (Col 4, line 45. Length of scene.). Kataoka also teaches of a descriptor comprising a starting time of the scene (Col 4, lines 44-45). However, Kataoka does not teach of a descriptor comprising a starting date and a final date defining a time window in which the data associated with the descriptor can be used.

23. Robbins teachings of identifying and recording content by attaching descriptors, where the descriptor comprises a date time-to-start and time-to-stop information (Fig. 7g; Col 38, lines 64-66) for recording the broadcast (Col 38, lines 35-37).

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka, Lenihan, and Robbins because all three teachings deal with recording video streams. Furthermore, the teachings of Robbins for the descriptor to include a starting date and a final date for recording the video stream would improve the system of Kataoka and Lenihan by enhancing the receiver's recording capabilities, wherein the receiver can record content based on date in addition to time.

25. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kataoka and Lenihan, in view of Matsushima et al, US Patent #6,535,717 (Matsushima hereinafter).

26. As per claim 9, Matsushima teaches the communication system as claimed in claim 1, wherein the transmitter comprises a server (Col 3, lines 52-64. Broadcast facility for transmitting broadcast stream.) and the receiver (Col 4, lines 9-10. TV receiver system.) comprises a terminal for transmitting and receiving digital encoded data (Col 5, lines 26-27.

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Digital TV system.). However, Kataoka does not specifically teach of transmitting and receiving digital encoded data in accordance with the MPEG-4 standard.

27. Matsushima teaches of transmitting and reproducing a digital broadcast in accordance with the MPEG-4 standard (Col 9, lines 35-39).

28. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka, Lenihan, and Matsushima because the teachings of Matsushima to transmit broadcasts in MPEG-4 standard would improve the system of Kataoka and Lenihan by providing high quality audio and video encoding for data transmission.

Response to Arguments

29. Applicant's arguments filed 1/30/2006 have been fully considered but they are not persuasive. Applicant argued that (1) Kataoka neither discloses nor suggests the analysis means as claimed in claim 1 of the subject invention. Rather, an operator performs each of the above noted tasks and makes the decisions. Further, there is no disclosure or suggestion of multiple-use data or single-use data; (2) Applicant submits that there is no disclosure or suggestion in Kataoka et al. that the descriptors should be stored along with the identified programs; (3) Kataoka does not disclose or suggest that the receiver should include composition means for combining the stored multiple-use data and the received single-use data for composing contents of an application; (4) Applicant argued that Kataoka et al or Robbins do not show or suggest the features of claim 7 because the starting data and final date relates to a time window during which a user of the receiver may use (or reproduce from storage) the multiple data defined by the descriptor. This pertains to a time window after storage of the

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multiple-use data; and (5) Nakatsuyama does not update "descriptors and multiple-use data previously received and stored".

Examiner traverse the arguments:

30. As to point (1), Kataoka teaches of analyzing digital data to identify different types of data (Col 5, lines 9-16). While an operator performs the analysis, the computer also identifies and inserts the tags in the appropriate position (Col 5, lines 21-27). The claims do not specify the analysis means, thus Kataoka teaches the scopes of the claims limitation. During the patent examination, the claims are given their broadest reasonable interpretation. See MPEP 2111.

As to the second part of Applicant's argument, the claims cite the limitation of "multiple-use data which can be used several times at the receiver end" and "single-use data which can be used only once upon reception at the receiver end". Kataoka teaches of selectively identifying data and inserting tags, wherein the tagged data are used for identifying and recording data (Col 5, lines 41-45). Data that is recorded may be used several times at the receiver. Therefore, Kataoka teaches Applicant's argued limitation.

31. As to point (2), Kataoka teaches:

- i) Column 5, lines 42-44, "Once the user issues a clip collecting command specifying a desired category, the controller 48 keeps collecting and accumulating the video scenes with the tags..."

32. According to quoted section (i), Kataoka clearly teaches Applicant's argued limitation.

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33. As to point (3), the Examiner stated in the previous office action that Kataoka did not teach the argued limitation. Claims 1, 4, 8, and 10 were rejected Kataoka, in view of Lenihan. Kataoka taught of receiving single-use and multiple-use data, and storing multiple-use data. Lenihan further taught the concept of composing content on the basis of combining previously stored data and data from external sources. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kataoka and Lenihan to compose content by combining stored data and external data such as single-use data with the motivation that doing so would enhance the system of Kataoka by providing modified content playback with data from additional sources.

Furthermore, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

34. As to point (4), Applicant argument of "a time window during which a user of the receiver may use (or reproduce from storage) the multiple data" and "a time window after storage of the multiple-use data" are features not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Robbins teaches of descriptors with a time window comprising of start and end time for identifying and recording the content associated with the descriptors (Col 38, lines 35-37, 64-66). Therefore, Kataoka, in view of Robbins, teach the limitations of claim 7.

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35. As to point (5), Examiner stated in the previous office action that Robbins taught of updating data descriptors (Col 32, lines 33-45). In additional, Nakatsuyama teaches,

ii) Column 5, lines 16-24, "Real time updates include programs such as news, financial information... or personal programs.... Programs may be stored..."

iii) Column 8, lines 4-8, "the receiver overwrites old program data as new programs are received."

36. From quoted sections (ii) and (iii), Nakatsuyama teaches Applicant's argued limitation of "updating multiple-use data previously received and stored in said storage means;" since, previously stored programs are updated with real time programs. Furthermore, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

37. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Joo whose telephone number is 571 272-3966. The examiner can normally be reached on Monday to Friday 7 to 4.

39. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on 571 272-3964. The fax phone number for the organization where this application or proceeding is assigned 571-273-8300.

40. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

March 20, 2006

JJ


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